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California's Seller Assisted Marketing Plan Act California Civil Code Section 1812.200 et seq.

We are providing information to assist you with registering a Seller Assisted Marketing Plan. Because of the very diverse operations of Seller Assisted Marketing Plans (SAMPs), it is almost impossible to set forth forms which are applicable to all companies. Attached, however, for your convenience is a typical sample of the documents which a SAMP providing a service might file with the Office of the Attorney General to comply with the SAMP Act. The particular language in the sample may not be suitable for your business, and you are responsible for reading the entire statute and determining which provisions of the law apply to your particular business. This is especially important because there is certain information which does not have to be included in the public disclosure document, but which must be submitted to the Attorney General's office. As two examples, §1812.203(a) requires that you provide the Attorney General with the names and resident addresses of those who sell for you and §1812.214(a) requires that you file with the Attorney General an irrevocable consent appointing the Secretary of State as your attorney to receive service of process in a non-criminal case.

Additionally, the sample does not make any of the disclosures relating to a bond or trust account which the law requires in certain situations. If either is required because of the way you conduct business, you must modify the form and comply with the law. Also, the form does not make necessary disclosures regarding escrow accounts for deposits taken in excess of 20% of the initial purchase price. If you take a down payment of more than 20% prior to delivery, you must establish an escrow account and make certain additional disclosures. If this applies to you, you will have to modify the sample disclosures enclosed.

There are other provisions of the Act which also may apply to your particular business. To help you decide exactly what information you must disclose, a copy of the SAMP law, which appears in the California Civil Code at §§1812.200-1812.221, is included for you to review. If there is a difference between the law and the sample included herewith, you must comply with the law. You may want to review your filing with an attorney before you submit it to this office.

Disclosures to potential purchasers may be made in one of two ways: (a) the disclosures required by §205 and §206 may be given as a combined document as long as the information is given at the time of the first contact (whether the first contact is by mail or in-person) with the potential purchaser; or (b) the disclosures required by §205 may be given to the potential buyer at the time of first contact and the disclosures required by §206 given to the potential buyer no less than 48 hours before the potential purchaser signs a contract or 48 hours before you take any money from the potential purchaser, whichever occurs first. The sample enclosed is a combined disclosure document. If you wish to separate them, use the §205 paragraphs for the first disclosure document and the §206 paragraphs for the second disclosure document. If you choose not to use a combined document, the second disclosure document would have the separate heading: “SELLER ASSISTED MARKETING PLAN INFORMATION SHEET.”

We hope that this sample will prove helpful to you in your filing of the required documents. Alternative sentences or paragraphs or explanations are noted thus []. References to paragraphs in the Act are noted thus { }. {§205}, for example, refers to Civil Code §1812.205.

Remember, you must file your disclosure document along with your filing fee of \$100 with the Attorney General’s office at least 30 days before you start advertising or selling. Check §1812.203 for complete details regarding these requirements. File your documents at the following location:

By Mail

Department of Justice
Attorney General’s Office
Attn: Gayle S. Weller
P.O. Box 85266
San Diego, CA 92186-5266

By Courier

Department of Justice
Attorney General’s Office
Attn: Gayle S. Weller
110 West A Street, Suite 1100
San Diego, CA 92101

Do not forget to read the entire statute because there may be items you need to include in your disclosure documents which are not included in the sample document.

Some paragraphs may not apply at all to your business. For example, some Seller Assisted Marketing Plans involve no training and little if any assistance. Some involve sale of merchandise only; some service only; some training only; some combine these categories. You need only use the paragraphs in the sample which apply to your business; you may have to add more information if such information is applicable to your business.

Remember also that in submitting the documents to the Attorney General’s office and when giving the disclosure information to prospective purchasers, you must also include a copy of the contract you will have purchasers sign. There are specific requirements set forth in §209 for what must be contained in the contract. You should review this section when drafting your contract. We hope this information is helpful.